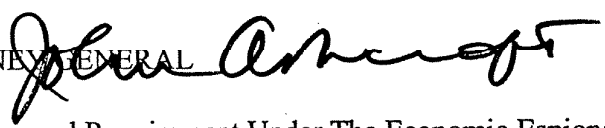




Office of the Attorney General
Washington, D.C. 20530

March 1, 2002

MEMORANDUM FOR ALL UNITED STATES ATTORNEYS
ALL FIRST ASSISTANT UNITED STATES ATTORNEYS
ALL CRIMINAL CHIEFS
ALL CRIMINAL DIVISION SECTION CHIEFS AND
OFFICE DIRECTORS

FROM: THE ATTORNEY GENERAL 
SUBJECT: Renewal of Approval Requirement Under The Economic Espionage Act of 1996

Recognizing the increasingly important role of intellectual property in ensuring national security and the well-being of our economy, Congress enacted the Economic Espionage Act of 1996 ("EEA"). Codified at 18 U.S.C. §§ 1831-1839, the EEA criminalizes the theft or misappropriation of trade secrets for the benefit of a foreign government, instrumentality or agent (§ 1831) or for commercial or economic gain (§ 1832). Pursuant to 28 C.F.R. § 0.64-5, all prosecutions brought under §§ 1831 and 1832 must be approved by the Attorney General, the Deputy Attorney General, or the Assistant Attorney General of the Criminal Division for 5 years after the enactment of the EEA. This requirement expired on October 11, 2001.

I am pleased to report that since the passage of the EEA, federal prosecutors have effectively used the statute to protect against the criminal misappropriation of trade secrets while avoiding intervening in commercial disputes best handled through civil litigation. Federal criminal charges have been filed in 29 cases of commercial trade secret theft, resulting in guilty pleas or verdicts in 25 cases. Sentences of as much as 77 months imprisonment have been imposed. There have been two EEA trials under § 1832, both leading to guilty verdicts against all the defendants. The remaining § 1832 cases are currently pending trial. This year, the first indictment charging foreign economic espionage in violation of § 1831 was returned.

As one indication of the measured and thorough approach the Department has taken with respect to investigating and charging theft of trade secrets, there has not been an acquittal under the EEA since passage of the legislation. Additional information about EEA prosecutions may be found at CCIPS' website, www.cybercrime.gov.

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I have decided to revive the prior approval requirement for initiating prosecutions under § 1831, and thus, such approval should be obtained from the Assistant Attorney General for the Criminal Division, through the Internal Security Section (ISS). I have decided not to extend the approval requirement for cases under § 1832. Nevertheless, I strongly urge prosecutors to consult with the Computer Crime and Intellectual Property Section (CCIPS) regarding § 1832 prosecutions prior to filing charges. ISS can be reached at 202-514-1187 and CCIPS can be reached at 202-514-1026. Both sections have developed an expertise in handling these complex cases and would be a valuable source of information to any office seeking charges under the EEA.

The United States Attorneys' Manual (§ 9-59.000) will be amended to reflect this change.